

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

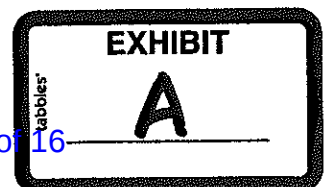
ROBERT WASMER)	
1414 E 27 th Street, #209)	
Kansas City, MO 64108)	
)	Case No.
Plaintiff,)	Division
)	
v.)	
)	
SAFECO INSURANCE COMPANY)	
OF AMERICA)	
Serve:)	
Director of Insurance)	
301 W. High Street, Room 530)	
Jefferson City, MO 65101)	
)	
Defendant.)	

PETITION FOR DAMAGES

Plaintiff Robert Wasmer, by and through the undersigned counsel, and for his cause of action against Defendant Safeco Insurance Company of America (hereinafter "Defendant Safeco"), states, alleges, and avers as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Plaintiff was and is an individual and resident of Kansas City, Jackson County, Missouri.
2. At all times relevant, Defendant Safeco Insurance Company of America has been an insurer authorized to transact business in the State of Missouri as per Chapter 379, R.S.Mo., and may be served with process via the Missouri Director of Insurance.
3. Venue is proper under Section 508.010 R.S.Mo because Defendant conducts its business throughout the State of Missouri and transacted business in Jackson County, Missouri at the time of the filing of this Petition.



FACTS

4. On June 5, 2019, at approximately 8:20 p.m., Plaintiff was a passenger in a vehicle driving westbound on E. 27th Street, a public thoroughfare, approaching the intersection of Bellefontaine Avenue.

5. At said time and place, a phantom vehicle, operated by an individual that remains unidentified, was traveling eastbound on E. 27th Street.

6. The driver of the phantom vehicle referenced in paragraph 5 remains unidentified.

7. At said time and place, the phantom vehicle made a left turn in front of Plaintiff's vehicle and caused a collision.

8. Following the collision referenced in paragraph 7, the phantom vehicle fled from the scene of the collision.

9. Following the collision referenced in paragraph 7, Plaintiff was unable to obtain any identifying information from the driver of the phantom vehicle.

10. The unidentified driver of the phantom vehicle was negligent as follows:

- a. Said unidentified driver failed to yield the right of way;
- b. Said unidentified driver failed to use reasonable care to keep his vehicle under control;
- c. Said unidentified driver failed to drive within the range of his vision in order to avoid colliding with any other vehicle using the roadway;
- d. Said unidentified driver failed to keep a proper lookout for other vehicles and objects in his line of vision in order to avoid colliding with any other vehicle using the roadway;

- e. Said unidentified driver knew or by the use of the highest degree of care could have known that there was a reasonable likelihood of collision in time thereafter to have stopped, swerved, slackened speed, sounded a warning, slackened speed and swerved, slackened speed and sounded a warning and/or swerved and sounded a warning, but said unidentified driver failed to do so.

11. As a direct and proximate result of the collision, which was caused by the aforementioned acts and omissions of the unidentified driver, Plaintiff sustained serious physical injuries, which are permanent and progressive in nature.

12. As a further direct and proximate result of the collision, which was caused by the aforementioned acts and omissions of the unidentified driver, Plaintiff has endured and will continue to endure significant pain and suffering.

13. As a further direct and proximate result of the aforesaid negligence of the unidentified driver, Plaintiff has suffered and will continue to suffer damages including, but not limited to:

- a. Past medical and hospital expenses;
- b. Future medical, hospital and life care expenses;
- c. Past lost wages;
- d. Diminished earning capacity;
- e. Past and future emotional distress and pain and suffering; and
- f. Past and future loss of enjoyment of life.

14. All of Plaintiff's injuries, disabilities, infirmities, and damages are permanent, painful and progressive in nature and extent.

COUNT I – UNINSURED MOTORIST AND BREACH OF CONTRACT

15. Plaintiff hereby incorporates by reference all preceding allegations of Plaintiff's Petition for Damages as if fully set forth herein.

16. At the time of the collision referenced in paragraph 7 of this Petition for Damages, Plaintiff was covered by a policy and contract of insurance issued by Defendant Safeco, Policy No. Z4291618 (the "Policy"), which provided uninsured motorist coverage to any "insured person" legally entitled to recover from the owner or operator of an uninsured motor vehicle.

17. The Safeco Policy provides that Defendant Safeco will pay "damages for 'bodily injury' which an 'insured person' is legally entitled to recover from the owner or operator of an 'uninsured motor vehicle.'"

18. Plaintiff is an "insured person" as the term is defined in the Safeco Policy as he is the insured identified in the Safeco Policy.

19. The Policy further defines an "uninsured motor vehicle" to include a hit and run vehicle whose owner or operator is unknown.

20. The Vehicle causing the collision identified in paragraph 7 of this Petition and that is the subject of this action was, by definition, an "uninsured motor vehicle" as the owner or operator of the vehicle is unknown.

21. Plaintiff has complied with all conditions precedent on his part necessary to present his uninsured motorist claim to Defendant Safeco.

22. Defendant Safeco has breached the Policy by failing and refusing to fully compensate Plaintiff for the injuries sustained in the aforementioned collision.

23. As a direct and proximate result of such breach of contract, Plaintiff has been damaged.

WHEREFORE, based on the foregoing, Plaintiff prays for a judgment against Defendant in excess of \$25,000, Plaintiff's attorney fees, costs incurred herein and for such other and further relief as the Court deems just and proper.

COUNT II – VEXATIOUS REFUSAL TO PAY

24. Plaintiff hereby incorporates by reference all preceding allegations of Plaintiff's Petition for Damages as if fully set forth herein.

25. Plaintiff has complied with all conditions precedent on his part necessary to present his uninsured motorist claim to Defendant Safeco.

26. Plaintiff has requested payment from Defendant Safeco for the uninsured motorist limits in accordance with the uninsured motorist coverage in effect at the time of the loss.

27. Defendant Safeco has and continues to fail and refuse to issue payment to Plaintiff for limits of the uninsured motorist coverage in effect at the time of loss.

28. Defendant Safeco has failed to fully compensate Plaintiff for his damages in accordance with the terms of the Policy and such refusal was vexatious and without just cause or excuse.

WHEREFORE, in accordance with Missouri Statutes § 375.296 and § 375.240, Plaintiff prays for judgment against Defendant in the amount equal to 20% of the first \$1,500 awarded to Plaintiff under Count 1, 10% of all sums awarded to Plaintiff under Count I over and above \$1,500, together with reasonable attorney fees, for Plaintiff's costs and such further relief and orders as the Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all counts and claims in this cause of action.

Respectfully submitted,

DIPASQUALE MOORE, LLC

/s/ David L. Johnson

David L. Johnson #61867

4050 Pennsylvania Ave., Suite 121

Kansas City, MO 64111

Phone: (816) 888-7500

Fax: (816) 888-7519

E-mail: dave.johnson@dmlawusa.com

ATTORNEY FOR PLAINTIFF

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

ROBERT WASMER)	
1414 E 27 th Street, #209)	
Kansas City, MO 64108)	
)	Case No.
Plaintiff,)	Division
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SAFECO INSURANCE COMPANY)	
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Serve:)	
Director of Insurance)	
301 W. High Street, Room 530)	
Jefferson City, MO 65101)	
)	
Defendant.)	

PLAINTIFF'S DESIGNATION OF LEAD COUNSEL

Pursuant to Local Rule 3.5, Plaintiff hereby designates David L. Johnson of the law firm of DiPasquale Moore, LLC as the lead attorney of record for Plaintiff.

Respectfully submitted,

DIPASQUALE MOORE, LLC

/s/ David L. Johnson
David L. Johnson #61867
4050 Pennsylvania Ave., Suite 121
Kansas City, MO 64111
Phone: (816) 888-7500
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Director of Insurance)	
301 W. High Street, Room 530)	
Jefferson City, MO 65101)	
)	
Defendant.)	

REQUEST FOR SUMMONS

To: Clerk of the Court

The Clerk of the Court will issue a Summons for Service of the Petition on: Personal service upon **Safeco Insurance Company of America, via the Direct of Insurance, 301 W. High Street, Room 530, Jefferson City, MO 65101.**

You are hereby instructed to effect service of the Summons as follows:

- X a. Service through the office of the Sheriff of Cole County, Missouri other than by certified mail.
- b. Service by an authorized Process Server, please send the Summons to undersigned attorney to forward to Process Server.
- c. Service by First Class mail by the undersigned litigant/attorney, who understands that the responsibility for obtaining service and effecting its return shall be on the attorney. The Receipt for service (green card) must be filed with the Clerk's office before service can be perfected.
- d. Service by certified mail service by the office of the Sheriff of Jackson County, State of Missouri. The undersigned understands that the responsibility of obtaining service and effecting its return shall be on the Sheriff.

_____ e. Return to the undersigned attorney for service.

Respectfully submitted,

DIPASQUALE MOORE, LLC

/s/ David L. Johnson

David L. Johnson #61867

4050 Pennsylvania Ave., Suite 121

Kansas City, MO 64111

Phone: (816) 888-7500

Fax: (816) 888-7519

E-mail: dave.johnson@dmlawusa.com

ATTORNEY FOR PLAINTIFF

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

ROBERT WASMER

PLAINTIFF(S),
VS.

CASE NO. 2016-CV20054
DIVISION 9

SAFECO INSURANCE COMPANY OF AMERICA

DEFENDANT(S),

**NOTICE OF CASE MANAGEMENT CONFERENCE FOR CIVIL CASE
AND ORDER FOR MEDIATION**

NOTICE IS HEREBY GIVEN that a Case Management Conference will be held with the Honorable JOEL P FAHNESTOCK on 11-JAN-2021 in DIVISION 9 at 09:00 AM. All Applications for Continuance of a Case Management Conference should be filed on or before Wednesday of the week prior to the case management setting. Applications for Continuance of a Case Management Conference shall comply with Supreme Court Rule and 16th Cir. R. 34.1. Continuance of a Case Management Conference will only be granted for good cause shown because it is the desire of the Court to meet with counsel and parties in all cases within the first 4 months that a case has been on file. All counsel and parties are directed to check Case.NET on the 16th Judicial Circuit web site at www.16thcircuit.org after filing an application for continuance to determine whether or not it has been granted.

A lead attorney of record must be designated for each party as required by Local Rule 3.5.1. A separate pleading designating the lead attorney of record shall be filed by each party as described in Local Rule 3.5.2. The parties are advised that if they do not file a separate pleading designating lead counsel, even in situations where there is only one attorney representing the party, JIS will not be updated by civil records department, and copies of orders will be sent to the address currently shown in JIS. Civil Records does not update attorney information from answers or other pleadings. The Designation of Lead Attorney pleading shall contain the name of lead counsel, firm name, mailing address, phone number, FAX number and E-mail address of the attorney who is lead counsel.

At the Case Management Conference, counsel should be prepared to address at least the following:

- a. A trial setting;
- b. Expert Witness Disclosure Cutoff Date;
- c. A schedule for the orderly preparation of the case for trial;
- d. Any issues which require input or action by the Court;
- e. The status of settlement negotiations.

MEDIATION

The parties are ordered to participate in mediation pursuant to Supreme Court Rule 17. Mediation shall be completed within 10 months after the date the case is filed for complex cases, and 6 months after the date the case is filed for other circuit cases, unless otherwise ordered by the Court. Each party shall personally appear at the mediation and participate in the process. In the event a party does not have the authority to enter into a settlement, then a representative of the entity that does have actual authority to enter into a settlement on behalf of the party shall also personally attend the mediations with the party.

The parties shall confer and select a mutually agreeable person to act as mediator in this case. If the parties are unable to agree on a mediator the court will appoint a mediator at the Case Management Conference.

Each party shall pay their respective pro-rata cost of the mediation directly to the mediator.

POLICIES/PROCEDURES

Please refer to the Court's web page www.16thcircuit.org for division policies and procedural information listed by each judge.

/S/ JOEL P FAHNESTOCK
JOEL P FAHNESTOCK, **Circuit Judge**

Certificate of Service

This is to certify that a copy of the foregoing was mailed postage pre-paid or hand delivered to the plaintiff with the delivery of the file-stamped copy of the petition. It is further certified that a copy of the foregoing will be served with the summons on each defendant named in this action.

Attorney for Plaintiff(s):

DAVID LAWRENCE JOHNSON, 4050 PENNSYLVANIA AVE, SUITE 121, KANSAS CITY, MO 64111

Defendant(s):

SAFECO INSURANCE COMPANY OF AMERICA

Dated: 01-OCT-2020

MARY A. MARQUEZ
Court Administrator




IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: JOEL P FAHNESTOCK	Case Number: 2016-CV20054
Plaintiff/Petitioner: ROBERT WASMER	Plaintiff's/Petitioner's Attorney/Address DAVID LAWRENCE JOHNSON 4050 PENNSYLVANIA AVE SUITE 121 KANSAS CITY, MO 64111
Defendant/Respondent: SAFECO INSURANCE COMPANY OF AMERICA	Court Address: 415 E 12th KANSAS CITY, MO 64106
Nature of Suit: CC Pers Injury-Vehicular	

(Date File Stamp)


Summons in Civil Case

The State of Missouri to: SAFECO INSURANCE COMPANY OF AMERICA
Alias:
 DIRECTOR OF INSURANCE
 301 W HIGH STREET, ROOM 530
 JEFFERSON CITY, MO 65101

COURT SEAL OF

JACKSON COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

01-OCT-2020
 Date


 Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ _____

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$. _____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

SUMMONS/GARNISHMENT SERVICE PACKETS ATTORNEY INFORMATION

Under the Missouri e-filing system now utilized by the 16th Judicial Circuit Court, once a case has been accepted for filing, a clerk prepares the necessary documents for service. The summons/garnishment is sent to the attorney by an e-mail containing a link so that the filer may print and deliver the summons/garnishment, pleadings and any other necessary documents to the person designated to serve the documents.

Pursuant to State statutes, Supreme Court Rules and Local Court Rules, attorneys are required to print, attach and serve specific documents with certain types of Petitions and other filings.

Please refer to the Court's website for instructions on how to assemble the service packets at:

16thcircuit.org → Electronic Filing Information → Required Documents for Service – eFiled cases → Summons/Garnishment Service Packet Information.

Please review this information periodically, as revisions are frequently made. Thank you.

Circuit Court of Jackson County



IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: JOEL P FAHNESTOCK	Case Number: 2016-CV20054
Plaintiff/Petitioner: ROBERT WASMER	Plaintiff's/Petitioner's Attorney/Address DAVID LAWRENCE JOHNSON 4050 PENNSYLVANIA AVE SUITE 121 KANSAS CITY, MO 64111
Defendant/Respondent: SAFECO INSURANCE COMPANY OF AMERICA	Court Address: 415 E 12th KANSAS CITY, MO 64106
Nature of Suit: CC Pers Injury-Vehicular	

RECEIVED

OCT 08 2020

COLE COUNTY
SHERIFF'S OFFICE

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: SAFECO INSURANCE COMPANY OF AMERICA
Alias:DIRECTOR OF INSURANCE
301 W HIGH STREET, ROOM 530
JEFFERSON CITY, MO 65101

COURT SEAL OF



JACKSON COUNTY

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01-OCT-2020

Date

Clerk

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☒ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

Debra Lee (name) Designee (title).

☐ other _____

Served at 301 W High St. Jefferson City, MO 65101 (address)

in Cole (County/City of St. Louis), MO, on 10-14-2020 (date) at 9:20 Am (time).

Sheriff 
Printed Name of Sheriff or ServerBy Dep. John Jacob 81
Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date _____ Notary Public _____

Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$ _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

9737
#302

SUMMONS/GARNISHMENT SERVICE PACKETS ATTORNEY INFORMATION

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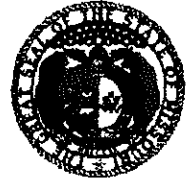
Please review this information periodically, as revisions are frequently made. Thank you.

Circuit Court of Jackson County

State of Missouri

Department of Commerce and Insurance

FILED IN DIST. COURT
20 OCT 30 PM 1:08



TO: Corporate Secretary (or United States Manager or Last Appointed General Agent) of

SAFECO INSURANCE COMPANY OF AMERICA
CSC LAWYERS INCORPORATING SERVICE COMPAN
221 BOLIVAR STREET
JEFFERSON CITY, MO 65101

RE: Court: Jackson Co. at Kansas City, Case Number: 2016-CV20054

You will take notice that original process in the suit against you, a copy of which is attached hereto and sent to you by certified mail, was duly served upon you at Jefferson City, Missouri, by serving the same on the Director of the Department of Commerce and Insurance of the state of Missouri, Dated at Jefferson City, Missouri this Wednesday, October 14, 2020.

Director of Commerce and Insurance

AFFIDAVIT

State of Missouri,

ss.

County of Cole,

The undersigned Director of the Department of Commerce and Insurance or the Director's designated agent, hereby makes oath and certifies the original of the above notice to the above addressee was mailed at the United States Post Office in Jefferson City, Missouri on October 15, 2020 by first class certified mail prepaid as provided by section 375.906.5, RSMo. and Supreme Court Rule 54.15

Director, Department of Commerce and Insurance

By:

Subscribed and sworn to before me this 15th day of October, 2020

My commission expires:



KATHRYN LATIMER
My Commission Expires
March 4, 2024
Cole County
Commission #12418395